REMARKS

Claims 1-3, 7-16, and 20-22 are pending in the present application. Claims 1, 2 ,5-10, 12-13, 16, 18-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Christensen (US 6,957,041), in further in view of Bolleman (US 6,286,063), in further view of Kesling (US Pub. No. 20020132575), and in further view of APA (applicant's admitted prior art in US Pub. No. 20050071240, para 0020).

The Examiner is respectfully asked to reconsider the application and to withdraw the rejections in view of the following remarks. Should the Examiner have any questions or concerns with respect to the application, he is invited to contact applicants' undersigned attorney at (206) 332-1392.

Prosecution History

A brief history of the present application is provided below to highlight Applicant's and the Office's mutual interest in the expedited resolution of this case.

- The first Non-Final Office Action (NFOA) was issued on November 22, 2004. The claims were rejected under 35 USC §102 and 35 USC §103 citing Kesling.

- A Final Office Action (FOA) was issued on June 2, 2005. The claims were rejected under 35 USC §102 and 35 USC §103 citing Kesling.

- A first RCE was filed after a first Appeal. A second FOA was issued on August 1, 2006. The claims were rejected under 35 USC §102 and 35 USC §103 citing Kesling.

- A second RCE was filed after a second Appeal. A NFOA was issued on August 23, 2007. The claims were rejected under 35 USC §103 citing Kesling and Borovoy.

- A FOA was issued on March 17, 2008. The claims were rejected under 35 USC §103 citing Kesling and Borovoy.

- A third RCE was filed on July 21, 2008 following by a NFOA issued on September 30, 2008. The claims were rejected under 35 USC §103 citing Kesling and Borovoy or Joseph.

- A FOA was issued on June 26, 2009. The claims were rejected under 35 USC §102 citing Christensen and under 35 USC §103 citing Christensen and Moskowitz.
- A fourth RCE was filed on October 13, 2009 after which a NFOA was issued on December 30, 2009. The claims were rejected under 35 USC §103 citing Christensen, Bolleman, and Moskowitz.
- In the present FOA, the claims are rejected under 35 USC §103 citing Christensen, Bolleman, Kesling, and Moskowitz.

Interview

Applicant would like to thank Examiner Fadok for the courtesy extended during the telephonic interviews conducted on August 11, October 12, October 21, and October 28, 2010. Although no agreement was reached, the distinctions between the cited references and the pending claims were discussed. Further details for the interviews are provided below. Should the Examiner have any questions or concerns that might be efficiently resolved by way of a telephonic interview, the Examiner is invited to call Applicant's undersigned attorney.

Rejections Under 35 USC §103(a)

Claims 1, 2 ,5-10, 12-13, 16, 18-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen, in further in view of Bolleman, in further view of Kesling, and in further view of APA. Applicant traverses this rejection and requests reconsideration thereof.

Applicant's claims are generally directed to the subject matter described in the specification, for example, in paragraphs [0017]-[0022] and [0025]. This subject matter concerns applicant's inventive system and method for purchasing goods and services related to broadcast media. As described, a system with a broadcast receiver receives broadcast media, such as a radio signal, and the media includes information relating to goods and services that can be purchased by persons receiving the media. The receiver includes an indicator button or other means so that the person can simply indicate the desire to purchase a good or service while that service is advertised in the broadcast media. The broadcast receiver informs the person if

purchase is not available after pressing the button. Once the button is pressed, the broadcast receiver records the purchase data and transmits the purchase data to one or more servers which selectively receive and verify purchase data sent from the one or more receivers. The broadcast media is not required to include any explicit information in the broadcast media stream about the purchase of the goods and services.

Applicant's claims are directed to a system (claims 1-4 and 7-8), a broadcast receiver (claims 9-11), and a method (claims 12-16 and 20-22), each of which includes or employs aspects of the system and method for purchasing goods and services related to broadcast media discussed above. For example, claim 1 previously recited that the system includes one or more broadcast receivers that "*receive in-band broadcast radio media and determine, based on the media, information relating to goods and services that can be purchased by persons receiving the media,*" and that the information "*can be determined when the broadcast radio media does not include explicit information pertaining to purchase of the goods and services. . .*"

Christensen is generally directed to a system that provides a radio broadcast listener with the ability to purchase media content such as music or speech while listening to the radio. In the system of Christensen, data such as song title and artist, author or publisher and the IP address for the location where the digital version of the content is transmitted using the RBDS/RDS data stream (Christensen, Abstract).

Kesling is generally directed to a system for mobile commerce in a satellite radio broadcasting system. A unique program identifier is associated with each program segment of a broadcast. When a listener hears a program segment of interest, the listener causes the associated program identifier to be captured and thereafter to be transferred to a central location or hub. Upon receipt of the program identifier at the central hub, the program identifier is used to determine information about the listener, obtain additional information regarding the program segment associated with the program identifier for the listener and/or initiate an e-commerce transaction involving the listener and/or other parties including merchandisers and advertisers (Kesling, Abstract).

With regard to independent claims 1, 9 and 12, each of these claims previously recited the important aspect of receiving media and determining, based on the media, information relating to goods and services that can be purchased by persons receiving the media, wherein the information can be determined *when the broadcast radio media does not include explicit information pertaining to purchase of the goods and services*. Thus, as indicated in paragraph [0025] of Applicant's specification, "if the broadcast media is a radio broadcast, each song does not have to include an advertisement of its identity or even state that it is available for purchase to the user of the broadcast receiver 14."

Furthermore, as stated in paragraph [0022], the broadcast receiver can include logic to gather data from other components, and the channel and time within the purchase data can be looked up at the server 32 to determine the identification of the good or service desired purchased. Finally, as indicated in paragraph [0023], if the purchase data is not immediately transmitted from the broadcast receiver when created, it can be stored in memory and transmitted through at a predetermined location or time.

All of the above embodiments are encompassed in a flexible system for purchasing goods whether or not the broadcast media provides purchase or even identification information. None of the cited references teach Applicant's claimed invention. In fact, all of the cited references teach the acquisition of an identifier of the song or other content prior to purchase, i.e. **identification information** pertaining to the purchase of the good or service.

For example, it is clear that the system of Christensen includes specific information pertaining to the purchase of the media in the broadcast stream. See, for example:

- col. 4:64-65: "radio text information or messages displaying purchase options"
- col. 4: 67-col.5: 1: "instructions for the location of downloadable audio"
- col. 5: 5-8: "a location where the song, editorial news broadcast, collection of songs, or other program material can be downloaded or purchased, and the purchase price for the song"
- col. 6: 7-14: "the APS server 144 incorporates station call letter information, and an audio download location such as IP address and a file name into a data stream

that is inserted into a radio station's broadcast using RBDS/RDS or similar

technology"

In the Office Action, the Examiner contends that Kesling paragraphs [0008], [0055] and

[0060] disclose that information can be determined when the broadcast radio media does not

include explicit information pertaining to purchase of the goods and services. Applicant

respectfully disagrees. Kesling paragraph [0055] states:

> If the listener is driving a car, however, it may be
> hazardous to write something down on paper. To avoid
> such dangerous activity, the listener may instead press
> select button 1220 when content of interest is played on
> radio 20. The program identifier (at least) associated with
> that content is then stored in non-removable memory 500.
> When the listener has stopped driving, he may then scroll
> through the program identifiers (along with any other
> related information listed in the table of FIG. 6) using scroll
> button 1230. He can then *write down the program*
> *identifiers* that are still of interest to him

(emphasis added). This paragraph merely states that a listener can manually retrieve a program

identifier for a particular content item at a future time.

Kesling paragraph [0060] states:

> Employing a physical media link 1140 such as a
> flash memory card simplifies the transferring of program
> identifiers from radio 20 to computer 1150 or kiosk 1180.
> In this case, every time a listener presses select button
> 1220, *the program identifier associated with the content*
> *being played at that time is stored on media link* 1140.
> Media link 1140 is then, as described previously, taken to a
> reader, which is preferably connected to computer 1150 or
> associated with kiosk 1180, and the information stored
> thereon is downloaded so that the user may proceed with
> purchase of a product, obtain further information or provide
> feedback regarding the content that was broadcast

(emphasis added). Here, Kesling merely discloses that the **program identifier** may be stored on a

media device for subsequent processing.

Kesling paragraph [0008], according to the Examiner, is cited only to show that a display is optional (Office Action, page 4).

None of these passages teach or suggest receiving in-band broadcast radio media and determining, based on the media, information relating to goods and services that can be purchased by persons receiving the media, wherein the information can be determined when the broadcast radio media does not include explicit information pertaining to purchase of the goods and services, as previously recited in Applicant's claims. Moreover, the teachings of these references are clearly against creating this element.

Kesling teaches that:

> a studio/uplink site digitally encodes selections of music and/or information and applies a header that *includes the program identifier (PID) that uniquely identifies each selection*. The program identifier may uniquely identify a selection of music, an advertisement, merchandise associated with an advertisement, or a response or reaction to something that is transmitted to a radio receiver, including both audio, text and/or other visual information

(emphasis added, see Kesling paragraph [0017]). Thus a unique identifier is an important aspect of the system of Kesling, which the present Office Action simply ignores.

None of the cited references - Kesling, Christensen, Bolleman, Kesling or the "APA" shows the presently claimed element of avoiding the need to synchronize any secondary database with the broadcast media. Yet, after appeal, withdrawal of Kesling, replacement of Kesling, and the citation of at least eight references and combinations of references, this element has not been meaningfully addressed.

In the Advisory Action dated October 12, the Examiner states that the motivation for combining the references is found in Kesling to incorporate an order system where the information does not need to be read by the driver thus reducing the inconvenience of the service and preventing accidents thus saving the customer time and increasing the safety of the products usage for the listener. In response, Applicant submits that such a motivation does not lead to Applicant's claimed invention because, in order to reduce such inconvenience, one would be

motivated *to include* such explicit information in the broadcast stream in order to minimize such inconvenience.

The Examiner also notes that Applicant's specification para 0025 notes that "As long as the broadcast media includes identification data such that the broadcast receiver can identify the goods or services to be purchased, the person can simply indicate a desire to purchase. ..". However, Applicant's paragraph [0022] states "the broadcast receiver 14 can include logic to gather data from other components, such as the specific broadcast receiver 46 as to the channel currently being monitored, and if the time is also recorded, the relay of the channel and time within *the purchase data can be looked up at the server* 32 to determine the identification of the good or service desired purchased" (emphasis added). Thus Applicant's claim is not as limited as the Examiner states because the purchase data can be determined under any of these scenarios:

- the media includes explicit purchase information
- the media includes only program data
- the media does not include any such data.

Applicant submits that none of the references, alone or in combination, teaches such a system. To further clarify the distinction, Applicant has amended claim 1, for example, to recite "the one or more servers are further configured to use the sent collected data to identify the requested goods or services when the media does not include explicit identification data identifying the goods and services."

In the interview dated October 28, the Examiner stated that Kesling paragraphs [0008] and [0019] teaches using channel information. Kesling paragraph [0008] teaches:

[0008] Patsiokas describes a system for distributing music
and content in which music or data is first transmitted to a
consumer via a wireless network. In a specific illustrative
embodiment, the wireless network is a satellite and terres-
trial radio network. The user is provided with a receiver (i.e.,
a radio) which is capable of receiving the wireless trans-
mission and providing an audio and/or visual output in
response thereto. In addition, the receiver is adapted to
receive an input from the user by which the user is able to
signal an interest in purchasing a selection of music or data
being played and/or displayed. In the illustrative embodi-
ment, in response to this signal from the user and a record-
ability flag transmitted in response to input from a content
provider, a program identifier (or "PID") signal, which
identifies the selection being played and/or displayed, is
stored on a removable media. In the specific illustrative
embodiment, the removable media is electronic (flash)
memory. The PID signal may be a composite signal indi-
cating the time at which and channel on which the selection
was playing, a signal that identifies a selection by number,
or other suitable signal. The receiver or the user's home
computer may be used to display the title, artist and/or other
information based on the user's selections.

While this paragraph recites time and channel information in a PID (program identifier), the

paragraph nevertheless discloses an identifier that is part of the broadcast media. Such an

identifier, as explained above, is not necessary in Applicant's claim. Claim 1 now recites "when

the broadcast radio media *does not include explicit identification data*" (emphasis added).

Kesling paragraph [0019] teaches:

[0019] In another embodiment, the present invention does
not require additional listener or subscriber involvement
beyond that which is normally required to control the radio.
The device of the present invention simply registers the
channels that the listener chooses and records the program
identifiers that are transmitted during the time that the
listener is tuned to those channels.

Again, reference is made to "program identifiers," in contradiction to claim 1. For at least this reason, Applicant submits that claim 1 defines over the art of record.

In response to the interview dated November 9, the Examiner cited US 20030088485 (Feinberg) paragraph [0048] as teaching recording the time and channel for later use by a server to identify products such as music for purchase. Feinberg paragraph [0048] is provided below:

> [0048] In the illustrated embodiment, the bookmark does not have to have a Product ID for the Broadcast platform. If the receiver gets the Start-time and Channel, the BSO **504** can refer to a look-up table to determine which Retailer(s) bought the airtime and what product (Product ID) it is selling. Therefore, the resulting bookmark format is reduced to just the Start-Time of the broadcast content (for example, a commercial or a song) since the channel information could come directly from the receiver.

Feinberg thus teaches a "bookmark" that identifies a start time for broadcast content. Paragraph [0039] describes the bookmark as follows:

> [0039] In one exemplary embodiment consistent with the present invention a simple index (or bookmark) is transmitted with each piece of broadcast content. The index (or bookmark) is mapped to a look-up table accessible over the Internet or through a back channel over the broadcast system. An example of such a back channel might be using a cellular system in conjunction with the broadcast system to communicate in the opposite direction.

The bookmark is thus information that is transmitted with "each piece of broadcast content." Since the bookmark identifies the broadcast content, the bookmark of Feinberg is no different from the program identifier (PID) of Kesling. As noted above, claim 1 recites ""when the broadcast radio media *does not include identifiers or identification information*" (emphasis added), which recites functionality that is not present in the teachings of Kesling and Feinberg.

For at least the above reasons, Applicant submits that the combination of Christensen, Bolleman, Kesling, and APA and now Feinberg, does not teach or suggest claim 1. Claims 9 and 12 has been amended to recite similar limitations and Applicant submits they claims 9 and 12

define over the art of record for similar reasons. Applicant submits that dependent claims 2, 7-8,

10, 13, 16, and 20-22 also define over the cited art, at least by virtue of their dependency on the

respective independent claims.

Claims 3, 11 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over

Christensen in view of Bolleman, in view of Kesling, in view of APA and further in view of

Moskowitz et al.. Applicant respectfully traverses the rejection and requests reconsideration.

For at least the grounds argued earlier with respect to the patentability of independent

claims 1, 9 and 12, from which claims 3, 11 and 15 ultimately depend, claims 3, 11 and 15 are

not obvious in view of Bolleman, in view of Kesling, in view of APA and further in view of

Moskowitz et al. For at least the above reasons, Applicant respectfully requests withdrawal of the

rejection of claims 3, 11 and 15.

Conclusion

In view of the foregoing remarks, Applicant respectfully submits that Claims 1-3, 7-16,

and 20-22 are in condition for allowance and entry of the present amendment and notification to

that effect is earnestly requested. If necessary, the Examiner is invited to telephone Applicant's

attorney (206-332-1392) to facilitate prosecution of this application.

Date: January 24, 2011   /Han Gim/
                                                Han Gim
                                                Registration No. 62,953

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439